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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,901	12/17/2003	Boris A. Maslov	544092000122	4049
25227	7590	05/10/2005	EXAMINER	
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			COLON SANTANA, EDUARDO	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,901

Applicant(s)

MASLOV ET AL

Examiner

Eduardo Colon-Santana

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/17/03 & 12/18/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Detailed Action.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 12/17/2003 fails in part to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Drawings

2. The replacement sheets of drawings were received on 8/25/04.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "In figure 2, items (20, 22, 24, 30, 32, 34, 42, 44, 48 and 50); in figure 8, items (60, 138, 140, 142, 145-148, 150, 152, 154 and 158)". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by

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the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states, "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claim 1 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of copending Application No. 10/809,808. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimizu JP Patent No. 2002186120 A.

Referring to claims 1 and 8, Shimizu describes a controller for electric automobile (see figure 1 and respective portions of the specification). Shimizu further depicts from figure 1, an electric vehicle controller for one or more in wheel electric motors (30-37), having its own motor controller (2-5), which independently control its electromagnetic circuits (phases) through independent power electronics (inverters 10, 10'; 11, 11'; 12, 12' and 13, 13') therefor eliminating electromagnetic and electrical interference between the circuits.

As to claim 5, Shimizu depicts in figure 1 a motor controller for an electric vehicle in which a main controller (1), periodically senses various driver inputs (i.e. acceleration, braking, shift position, etc.) and sensor inputs for each motor system (i.e. speed sensor, position sensor, etc.) to allow a torque/speed/efficiency characteristic to be dynamically adapted to changes in one or more of inputs mentioned above.

Referring to claims 2, 3, 6, 7 and 9, Shimizu depicts from figure 7, the basic structure of the electric power vehicle, in which an internal combustion engine (201) is arranged in a series configuration with one or more electric motor (101) and connected to an electric

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generator (202). In addition a fuel cell (302) is also arranged in a series hybrid configuration. However, Shimizu depicts section A in figure 7 as being a section representing each independently controlled electric motor, including a separate battery (104).

As to claim 4, Shimizu depicts in figure 7, the basic structure of the electric power vehicle in a series hybrid configuration (A). One ordinary skill in the art would recognize that to implement a parallel series hybrid configuration with one or more electric motors, an internal combustion engine (201) would be needed to work together as two separate systems in the same car.

As to claim 10, Shimizu addresses all the limitations as described above in claims 6, 7 and 9, in addition to having a central controller (1), that controls operation of the motors, batteries and gasoline engine (see figure 1). In addition the controller receives input from a user interface regarding function as brake, steering, shift position, acceleration.

Referring to claim 11, Shimizu as described above, depicts a motor controller for an electric vehicle in which a main controller (1), periodically senses various driver inputs (i.e. acceleration, braking, shift position, etc.) and sensor inputs for each motor system (i.e. speed sensor, position sensor, etc.) to allow a torque/speed/efficiency characteristic to be dynamically adapted to changes in one or more inputs from the driver or sensor inputs.

Conclusion

7. The prior art made of record in form 892 and not specifically relied upon is considered pertinent to applicant's disclosure to further show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo Colon-Santana whose telephone number is (571) 272-2060. The examiner can normally be reached on Monday thru Thursday 6:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Martin can be reached on (571) 272-2800 X.37. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ECS
April 27, 2005



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